

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
AT MARTINSBURG**

**GREGORY C. BUTLER,**

**Petitioner,**

**v.**

**CIVIL ACTION NO. 1:05CV16  
(BROADWATER)**

**JAMES WENDT, Warden,**

**Respondent.**

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge John S. Kaull, dated July 25, 2005. The petitioner did not file objections to the Report. After reviewing the above, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted.

The Court further **ORDERS** that the petition be **DENIED and DISMISSED WITH PREJUDICE** based on the reasons set forth in the Magistrate Judge's Report and Recommendation. Petitioner's Application to Proceed Without Payment of Fees (Document No. 4) is **DENIED as MOOT**. It is further **ORDERED** that this action be and is hereby **STRICKEN** from the active docket of this Court.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

**DATED** this 20<sup>th</sup> day of April 2006.

  
**W. CRAIG BROADWATER**  
**UNITED STATES DISTRICT JUDGE**